

## REMARKS

Applicant has amended the claims to more clearly recite patentable aspects of the claimed combination. Support for the amendment to the preambles, *i.e.*, reciting that the pass/fail judgment device “takes the form of pass/fail objects as a pass/fail judgment factor” exists at page 25, line 1 of the as-filed specification. Support for the amendment to the claims, *i.e.*, reciting that the parameter information acquiring unit acquires a plurality of pieces of parameter information on one or more pass/fail judgment objects “according to data of a normal distribution” exists at page 73, line 13 of the as-filed specification. Support for the amendment to the claims, that “the [rate of] overcontrol and the [rate of] flowout have a normal distribution” exists at page 74, lines 1-21, and Fig. 20 of the as-filed disclosure. Support for the amendment to the claims, that “the pass/fail judgment device [step] has a standard deviation which is based on the normal distribution” exists at page 73, line 13 of the as-filed specification. No new matter has been added.

Applicant traverses the 35 U.S.C. § 103(a) rejection of claims 1-38 under U.S. Patent 6,584,413 to Keenan, in view of U.S. Patent 7,194,369 to Lundstedt.

For example, as recited in the present claims, overcontrol and flowout are judged based on the data of a normal distribution, and the overcontrol and flowout are separated having the normal distribution. The pass/fail judgment unit [step] has a standard deviation which is based on the normal distribution. In contrast, Keenan performs an analysis of a chemical microanalytical characterization of a sample (col. 1, line 55), using Poisson statistics for controlling the noise effects (col. 10, line 2).

Lundstedt discloses a process for analyzing materials (col. 1, line 27), and does not mention controlling either overcontrol or flowout. Nor does Lundstedt provide any of the teachings missing from Keenan.

Moreover, although Lundstedt discloses an "outlier," or "invalid predicted value" (col. 10, lines 3-5), this is not the same as measuring flowout and overcontrol, as those terms are used in the claims.

At least because Keenan and Lundstedt, viewed alone or in combination, fail to disclose or suggest each of the elements recited in the claims, combination of these references fails to create a *prima facie* case of obviousness under 35 U.S.C. § 103(a), and claims 1-38 are patentable over Keenan and Lundstedt.

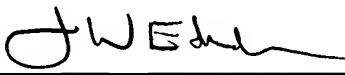
In view of the above amendments and remarks, Applicant respectfully requests reconsideration and allowance of claims 1-38.

Please grant any extension of time to the extent required to enter this response and charge any fees not accounted for above, to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: January 8, 2008

By:   
James W. Edmondson  
Registration No. 33,871